

AMENDED IN SENATE MAY 31, 2016

**SENATE BILL**

**No. 882**

**Introduced by Senator Hertzberg**

**(Coauthors: Senators Beall and Wieckowski)**

**(Coauthors: Assembly Members Dababneh and Cristina Garcia)**

January 15, 2016

An act to amend Section 640 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 882, as amended, Hertzberg. Crimes: public transportation: minors.

Existing law makes it an infraction or a misdemeanor to evade the payment of a fare on a public transit system, to misuse a transfer, pass, ticket, or token with the intent to evade the payment of a fare, or to use a discount ticket without authorization or fail to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket.

This bill would prohibit ~~the~~ a minor from being charged with an infraction or a misdemeanor for those acts.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 640 of the Penal Code is amended to
- 2 read:
- 3 640. (a) (1) Any of the acts described in paragraphs (1) to (6),
- 4 inclusive, of subdivision (b) is an infraction punishable by a fine
- 5 not to exceed two hundred fifty dollars (\$250) and by community

1 service for a total time not to exceed 48 hours over a period not to  
2 exceed 30 days, during a time other than during the violator's hours  
3 of school attendance or employment. Except as provided in  
4 subdivision (g), any of the acts described in paragraphs (1) to (3),  
5 inclusive, of subdivision (c), upon a first or second violation, is  
6 an infraction punishable by a fine not to exceed two hundred fifty  
7 dollars (\$250) and by community service for a total time not to  
8 exceed 48 hours over a period not to exceed 30 days, during a time  
9 other than during the violator's hours of school attendance or  
10 employment. Except as provided in subdivision (g), a third or  
11 subsequent violation of any of the acts described in paragraphs (1)  
12 to (3), inclusive, of subdivision (c) is a misdemeanor punishable  
13 by a fine of not more than four hundred dollars (\$400) or by  
14 imprisonment in a county jail for a period of not more than 90  
15 days, or by both that fine and imprisonment. Any of the acts  
16 described in subdivision (d) shall be punishable by a fine of not  
17 more than four hundred dollars (\$400), by imprisonment in a  
18 county jail for a period of not more than 90 days, or by both that  
19 fine and imprisonment.

20 (2) This section shall apply only to acts committed on or in a  
21 facility or vehicle of a public transportation system.

22 (b) (1) Eating or drinking in or on a system facility or vehicle  
23 in areas where those activities are prohibited by that system.

24 (2) Playing unreasonably loud sound equipment on or in a  
25 system facility or vehicle, or failing to comply with the warning  
26 of a transit official related to disturbing another person by loud or  
27 unreasonable noise.

28 (3) Smoking in or on a system facility or vehicle in areas where  
29 those activities are prohibited by that system.

30 (4) Expectorating upon a system facility or vehicle.

31 (5) Skateboarding, roller skating, bicycle riding, roller blading,  
32 or operating a motorized scooter or similar device, as defined in  
33 Section 407.5 of the Vehicle Code, in a system facility, vehicle,  
34 or parking structure. This paragraph does not apply to an activity  
35 that is necessary for utilization of the transit facility by a bicyclist,  
36 including, but not limited to, an activity that is necessary for  
37 parking a bicycle or transporting a bicycle aboard a transit vehicle,  
38 if that activity is conducted with the permission of the transit  
39 agency in a manner that does not interfere with the safety of the  
40 bicyclist or other patrons of the transit facility.

1 (6) Selling or peddling any goods, merchandise, property, or  
2 services of any kind whatsoever on the facilities, vehicles, or  
3 property of the public transportation system if the public  
4 transportation system has prohibited those acts and neither the  
5 public transportation system nor its duly authorized representatives  
6 have granted written consent to engage in those acts.

7 (c) (1) Evasion of the payment of a fare of the system. For  
8 purposes of this section, fare evasion includes entering an enclosed  
9 area of a public transit facility beyond posted signs prohibiting  
10 entrance without obtaining valid fare, in addition to entering a  
11 transit vehicle without valid fare.

12 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
13 evade the payment of a fare.

14 (3) (A) Unauthorized use of a discount ticket or failure to  
15 present, upon request from a transit system representative,  
16 acceptable proof of eligibility to use a discount ticket, in  
17 accordance with Section 99155 of the Public Utilities Code and  
18 posted system identification policies when entering or exiting a  
19 transit station or vehicle. Acceptable proof of eligibility must be  
20 clearly defined in the posting.

21 (B) If an eligible discount ticket user is not in possession of  
22 acceptable proof at the time of request, a citation issued shall be  
23 held for a period of 72 hours to allow the user to produce acceptable  
24 proof. If the proof is provided, the citation shall be voided. If the  
25 proof is not produced within that time period, the citation shall be  
26 processed.

27 (d) (1) Willfully disturbing others on or in a system facility or  
28 vehicle by engaging in boisterous or unruly behavior.

29 (2) Carrying an explosive, acid, or flammable liquid in a public  
30 transit facility or vehicle.

31 (3) Urinating or defecating in a system facility or vehicle, except  
32 in a lavatory. However, this paragraph shall not apply to a person  
33 who cannot comply with this paragraph as a result of a disability,  
34 age, or a medical condition.

35 (4) Willfully blocking the free movement of another person in  
36 a system facility or vehicle. This paragraph shall not be interpreted  
37 to affect any lawful activities permitted or First Amendment rights  
38 protected under the laws of this state or applicable federal law,  
39 including, but not limited to, laws related to collective bargaining,  
40 labor relations, or labor disputes.

(5) Willfully tampering with, removing, displacing, injuring, or destroying any part of a facility or vehicle of a public transportation system.

(e) Notwithstanding subdivision ~~(a)~~, (a) or (g), a public transportation agency, as defined in paragraph (4) of subdivision (c) of Section 99580 of the Public Utilities Code, may do either of the following:

(1) Enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) of Section 99580 of the Public Utilities Code on or in a facility or vehicle described in subdivision (a) for which the public transportation agency has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code.

(2) Enforce as an infraction pursuant to subdivision (b) the act of failing to yield seating reserved for an elderly or disabled person in a facility or vehicle for which the public transportation agency has jurisdiction, provided that the governing board of the public transportation agency enacts an ordinance to that effect after a public hearing on the issue.

(f) For purposes of this section, a “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by, an entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of a rail authority, whether owned or leased, including, but not limited to, any part of a railroad, or track of a railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached or connected to a railroad.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

(g) A minor shall not be charged with an infraction or a misdemeanor for violation of paragraphs (1) to (3), inclusive, of

1 subdivision (c). *Nothing in this subdivision shall limit the ability*  
2 *of a public transportation agency to assess an administrative*  
3 *penalty as established in paragraph (1) of subdivision (e) and in*  
4 *Section 99580 of the Public Utilities Code, not to exceed two*  
5 *hundred fifty dollars (\$250) upon a first or second violation and*  
6 *not to exceed four hundred dollars (\$400) upon a third or*  
7 *subsequent violation.*

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